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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/689,159	10/20/2003	Kevin L. Kimle	P03566USD1	6394
22885 7590 02/04/2009 MCKEE, VOORHEES & SEASE, P.L.C. 801 GRAND AVENUE SUITE 3200 DES MOINES, IA 50309-2721				
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TRAN, HAI				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/689,159

Applicant(s)

KIMLE ET AL.

Examiner

HAI TRAN

Art Unit

3694

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 January 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This is the **Final Office Action** in response to Applicant's Amendment/Remarks filed on January 7, 2009, for application, titled: "Method for Electronically Initiating and Managing Agricultural Production Contracts".
2. Claims 1-28 remain pending in this application and have been examined.

Response to Arguments

3. The Examiner has carefully reviewed and considered Applicant's arguments filed 01/07/2009, but determined that they are not persuasive.
4. **Argument #1:**
5. Applicant argues that the Manual reference does not teach facilitating the contracting and generating a contract for the sale of the agricultural commodities (see Remarks, page 9).
6. The Examiner disagrees. The claims are rejected under the combination of both Manual and Walker references. Manual discloses a process and information related to contracting agricultural commodities including types and amounts of agricultural commodities. Walker discloses a system and method for prospective buyers of goods and services to bind a contract with prospective sellers on the internet. Walker discloses all elements including: providing a web site, database storages, storing data, displaying data, receiving input data, and generating contract (see Walker, figures 2-5 and associated description). The Examiner is satisfied that a combination of both references discloses the limitations of facilitating and generating a contract.

7. **Argument #2:**

8. Applicant argues that the invention is a "forward contract" while the Manual reference refers to a "futures contract". Applicant argues that the claims provide a methodology for allowing non-standardized, customizable, non-exchange counterparties the opportunity to form such a forward contract (see Remarks, pages 10-11).

9. The Examiner disagrees. The Examiner is entitled to give the claim limitations their broadest reasonable interpretation in light of the Specification:

Claim Interpretation; Broadest Reasonable Interpretation:

<CLAIMS MUST BE GIVEN THEIR BROADEST REASONABLE INTERPRETATION

During patent examination, the pending claims must be "given the broadest reasonable interpretation consistent with the specification." Applicant always has the opportunity to amend the claims during prosecution and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 162 USPQ 541,550-51 (CCPA 1969).>

10. Manual discloses a process and information related to contracting agricultural commodities including types and amounts of agricultural commodities, trading by buyers desiring agricultural commodities and suppliers willing to supply agricultural commodities and sales contracts for such agricultural commodities. Applicant argues that the claims provide a methodology for allowing non-standardized, customizable, non-exchange counterparties the opportunity to form a "forward contract". However, it is noted that these formulations and features upon which Applicant relies are not recited in the rejected claims. Applicant argues that the invention is not an exchange-based commodity trading system. However, the inventive concept for forming a "forward

contract" is not seen in the claim(s) as written (Examiner does not see any differentiate limitation(s) of a forward contract in the claims).

11. **Argument #3:**

12. Applicant argues that the invention is not merely an automation of a manual process for forming and initiating a contract (see Remarks, page 11).

13. The Examiner disagrees. The Examiner again would like to point out to the Applicant that independent claim 1 without the agricultural commodities, the claim clearly shows is correspondent to a standard process for creating a contract on the Internet:

14. A method of facilitating the contracting of ... using the internet comprising the steps of:

providing a web server connected to the Internet;

providing a centralized database system for the storage and retrieval of data;

storing the data in the database system ... ;

in response to a command input into the system, displaying a listing of ... ;

including information related to ... ;

receiving input data from ... and;

generating a contract

15. As it can be seen that the claim discloses a common process for buyers and sellers to create a contract on the Internet and that all the elements (providing, storing, displaying, including, receiving and generating) are disclosed in Walker and Manual.

16. **Argument #4 (35 U.S.C. 103 rejections):**

17. Applicant argues, with respect to 35 U.S.C. 103 rejections, that the invention relates to facilitating the formation of contracts, it differs from an exchange-based commodity trading system such as described in the Manual (see Remarks, page 11). Applicant further argues that Walker reference is a different paradigm and therefore it can not be used as a reference for the rejection of the claims (see Remarks, page 12).

18. The Examiner disagrees. Applicant may argue that the invention is an electronic commodity trading system for facilitating the formation of a "forward contract" and differs from an exchange-based commodity trading system which is for facilitating the formation of a "futures contract". However, it is noted that the specific features of forming a "forward contract" (i.e. non-standardized, customizable, non-exchange counter parties, etc.) are not seen in the rejected claims. The specific formulations and features upon which Applicant relies are not recited in the rejected claims. Although the claims are interpreted in light of the Specification, limitations from the specification are not read into claims. See *in re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

19. Applicant argues that the claims disclose a method for creating a "forward contract" specifically for types and amount of agricultural commodities on the Internet. The Applicant also argues that at the time of the invention, contracting was extremely labor intensive and complex. The Examiner has carefully reviewed Applicant's claims and concluded that with the exception of the agricultural commodities, the claims basically disclose a known or obvious process for buyers and sellers to create a

contract on the Internet. In fact, when the Examiner takes out the agricultural commodities from the independent claim 1, the claim clearly shows that it corresponds to a standard process for creating a "contract" on the Internet:

20. A method of facilitating the contracting of ... using the internet comprising the steps of:

- providing a web server connected to the Internet;
- providing a centralized database system for the storage and retrieval of data;
- storing the data in the database system ... ;
- in response to a command input into the system, displaying a listing of ... ;
- including information related to ... ;
- receiving input data from ... and;
- generating a contract

21. As it can be seen that the claim discloses a common process for buyers and sellers to create a contract on the Internet and that all the elements (providing, storing, displaying, including, receiving and generating) are disclosed in Walker and Manual.

22. Therefore, the Examiner takes an Official Notice that it is old and well known in the art to automate a manual process using a processor. Automating a manual process speeds the process and increases accuracy over manual actions. It would have been obvious to one of ordinary skill in the art at the time of the invention to automate the process as taught by Manual by providing a processor as taught by Walker, as this would have provided faster and more accurate for contracting. To be patentable, a claim must be specific to its invention and this is not read in Applicant's claim language.

23. In conclusion, under the broadest reasonable interpretation in light of the Specification, the claims are taught and no inventive concept is found. Applicant is welcome to amend the claims to include the specific inventive concept because the inventive concept cannot be determined from the claim limitations as written.

24. In addition, for the reason set forth above, the Examiner decides to maintain the rejection based on the Manual and Walker references described in the previous Office Action and make this Office Action FINAL.

25. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

26. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Claim Rejections - 35 USC § 103

27. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

28. **Claims 1-28** are rejected under 35 U.S.C. 103(a) as being unpatentable over
Commodity Trading Manual ("Manual") in view of Walker et al. (U.S. Patent No.
5,794,207) ("Walker").

Examiner's Note: Examiner has cited particular columns and line numbers in the references as applied to the claims for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

29. **With respect to Claim 1**, Manual together with Walker disclose a method of
facilitating the contracting of agricultural commodities using the Internet comprising the
steps of:

providing a web server connected to the Internet (see Walker, col. 11, lines 55-
61, Figures 1, 2/element 200. Manual, page 35 where it says "Futures exchanges
provide a location for buyers and sellers to meet");

providing in operative communication with the server a centralized database
system for the storage and retrieval of data (see Walker, col. 11, lines 3-7, Figure
2/element 250. Manual, page 35 where it says "This activity is centralized on the
trading floor of each futures exchange");

storing data in the database system relating to types and amounts of potential
commodities desired by one or more commodity buyers (see Walker, col. 12, lines 54-
67, Figure 2/element 250. Manual, pages 36 where it says "This is accomplished by

futures exchanges through a variety of communication systems. The Chicago Board of Trade's advanced computer system");

in response to a command input into the system, displaying a listing of desired commodities including information related to the types, amounts available of the commodities (see Walker, col. 14, lines 53-65, Figure 3 and 4 "display device". Manual, page 194 where it says "Varieties of Corn");

receiving input data from a potential supplier of an commodity relating to a specific type and amount of a commodity which the supplier is willing to supply to a buyer harvest or at other times (see Walker, col. 14, lines 53-65, Figure 3 and 4 "input device". Manual, pages 36 where it says "Transactions made on the trading floor must be reported"); and

generating a contract for the sale of the specific type and amount of the commodity by the supplier to the buyer (see Walker, col. 15, lines 60-7 of col. 17, Figure 5/elements 500-580. Manual, pages 315 and 324).

30. Manual discloses a process and information related to contracting agricultural commodities including types and amounts of agricultural commodities, trading by buyers desiring agricultural commodities and suppliers willing to supply agricultural commodities and sales contracts for such agricultural commodities. However, Manual does not expressly disclose a web server for buyers and sellers to create a contract on the Internet.

31. Walker discloses a system and method for prospective buyers of goods and services to bind a contract with prospectively sellers on the Internet. Walker discloses

all elements in the claim including providing a web sever, database storage, storing data, displaying data, receiving input data, and generating contract.

32. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to automate the process taught by Manual using the system/method as taught by Walker in order to gain the efficiency and effectiveness for buyers and sellers to create a binding contract on the Internet, and since the claimed invention is merely an automation of a well known process, all this would be accomplished with no unpredictable results.

33. **With respect to Claims 2-12**, these are the dependent claims depend on claim 1. Hence, they are rejected as well.

34. **With respect to Claim 13**, this claim is similar to claim 1 with the exception of updating the listing of commodities (see Manual, page 324, "Trading unit" and the discussion in claim 1 above).

35. **With respect to Claims 14-23**, these are the dependent claims depend on claim 13. Hence, they are rejected as well.

36. **With respect to Claims 24-28**, these claims include the necessary database maintaining method, apparatus and processors for implementing the method claims 1-23. They have the same elements and limitations. Hence, they are rejected under the same rationale provide in claims 1-23.

Conclusion

37. Claims 1-28 are rejected.

38. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HAI TRAN whose telephone number is (571)272-7364. The examiner can normally be reached on M-F, 9-4 PM.
39. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James P. Trammell can be reached on (571) 272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.
40. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/H. T./
Examiner, Art Unit 3694

/James P Trammell/
Supervisory Patent Examiner, Art Unit 3694